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## DECLARATION IN LIEU OF OATH (37 C.F.R. § 1.68)

I, the undersigned, R. Lee Miller of Monterey, in the County of Monterey, State of California, am the sole inventor of a new and useful IMPROVED GOLF CLUB GRIP (Application Nr. 10/783,011) and am the President and CEO of FEEL GOLF COMPANY, Inc. which is the assignee of all rights, title and interest in and to said invention, design, application, and Letters Patent to issue thereon, said assignation having been duly recorded by the Assignment Division of the United States Patent and Trademark Office on February 23, 2004 on Reel 015014/Frame 0761.

I, R. LEE MILLER, make the following declaration in lieu of oath pursuant to 37 C.F.R. § 1.68. The IMPROVED GOLF CLUB GRIP disclosed by Application Nr. 10/783,011 (hereinafter, the "Grip") has attained **significant commercial success**. My company, FEEL GOLF COMPANY, Inc., has sold more than 260,000 Grips since the first major retail orders were received in November, 2004. These sales have generated over \$1.1 million in income and, since their introduction, have captured more than one-half of one percent of the United States after-market for golf club grips (conventional as well as reverse-taper). Further, projections for future sales of the Grip, based upon current orders, indicate that total sales for 2006 will exceed 2005 annual sales by a large margin, thereby capturing an even larger share of U.S. after-market for golf club grips.

I am convinced that these excellent sales figures are due to the innovative features of the grip: the combination of the reverse taper and the reminder rib. These features were combined to give the golfer better control of his swing and thereby reduce or eliminate the tendency to “slice” the ball. This combination increases the moment of inertia (MOI) imparted to the golf club head. The combination increases gripping stability which reduces twisting of the golf club head resulting in greater accuracy and distance. Further, a reverse taper grip without the rib or a rib on other than a reverse taper grip would not enhance performance to the extent realized by combining the two features.

These sales figures and projected sales are all the more impressive when viewed in light of the fact that the Grip retails for US \$9.95 as compared to other grips which retail for a fraction of the cost of the Grip. Customers realize that there’s something innovative and unique about the Grip and they’re willing to pay the extra cost for that innovation and uniqueness. I have enclosed catalogue listings to substantiate this price differential.

Although these sales figures speak for themselves with respect to the **commercial success** of the Grip, the four (4) major golf retailers in the United States have offered the following comments which further attest to the **commercial success** of the Grip:

**Golfsmith:** " You (Feel Golf) heard the consumers that had the grips already and were regripping and telling us they had such success with the product (the Grip) that they would not play with anything else."

(Note: Golfsmith is the largest retailer in the golf equipment industry and it is considered by many to be the standard bearer for the industry. If Golfsmith decides to carry a particular product for retail sales, the other retailers in the industry will "fall in line" to remain competitive.)

**Golfworks:** the senior buyer at Golfworks told Feel Golf's National Account Manager that he had "never seen a game improvement grip that was USGA conforming that his customers had responded to his company on how well it helped their game."

**Golf Galaxy:** Feel Golf's National Account Manager reported that Golf Galaxy "had doubt in the product and then bought it on a test market. (As a result of) the immediate sales and feedback on how well it helped his customers' game, they reordered after two weeks of selling the product from consumer demand."

**Watt's Golf:** "The Full Release Grip (i.e., the Grip) is a commercially viable product superseding any predecessor of a similar design. Predecessors did not incorporate the total game improvement design that the Full Release brings and we sell them without any problems."

I have attached copies of the E-mail correspondence that substantiates these comments from these retailers.

I firmly believe that these golf retailers know their products and that they know what they are talking about when it comes to discussing improvements to any of the equipment that they sell. I do not believe that they would describe the Grip as a "game improvement grip" or "superseding any predecessor of a similar design" unless the Grip truly lived up to those accolades. I believe that these retailers were well aware of the improvements disclosed by the prior art because it

is their business to know; in fact, their livelihood depends upon their knowledge of innovations and improvements to golf equipment. As such, when they say that “predecessors did not incorporate the total game improvement design that the Full Release (the “Grip”) brings,” they are attesting to the unique aspect of the Grip: the combination of the reverse taper and the reminder rib.

By acknowledging the **commercial success** and improved performance of the Grip, these retailers are confirming the non-obviousness of my invention. In short, if the combination of the two features was obvious, the global golf grip industry would have recognized the need for that combination and it (the global golf grip industry) or some other independent inventor would have disclosed it before me and these retailers would be selling their grips instead of mine.

I have been warned and I am aware that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of my patent application or any patent issuing thereon. Accordingly, all statements made in this declaration which are made of my own knowledge are true and all statements made in this declaration which are made on information and belief are believed by me to be true.

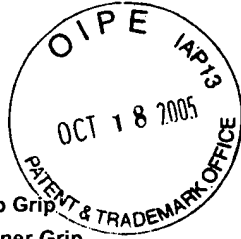
Declared this 5<sup>th</sup> day of October, 2005 in Monterey, California.

A handwritten signature in black ink, appearing to read 'R. Lee Miller', is written over a horizontal line.

R. LEE MILLER

10:46 AM  
10/04/05  
Accrual Basis

**Feel Golf Company**  
**Sales by Item Summary**  
March 1, 2004 through October 4, 2005



Mar 1, '04 - Oct 4, 05

**Inventory**

**1140 Bulk**

RCG60, Full Release X-Wrap Grip  
RTDT60, Full Release Designer Grip  
RTG60, Full Release X-Line Grip  
XLF60, Full Release Full Cord X-Line

**Total 1140**

<u>Units Qty</u>	<u>Amount</u>	<u>% of Sales</u>	<u>Avg Price</u>
110,148	502,021.00	41.09%	4.56
2,672	21,491.05	1.76%	8.04
99,155	453,295.55	37.11%	4.57
2,381	11,636.42	0.95%	4.89
	<u>988,444.02</u>	<u>80.91%</u>	

**Total Sales**

214,356    988,444.02    80.91%

**Assembly**

**Packs**

13 Pack- X Wrap Grip	1,331	17,303	83,034.65	6.8%	62.39
13 Pack- XL-Full Cord Grip	71	923	5,400.45	0.44%	76.06
13 Pack, X Line Grip	1,315	17,095	81,495.50	6.67%	61.97
13 Pack, Designer Grip	10	130	766.85	0.06%	76.69
3 Pack-X Wrap Grip	1,878	5,634	29,291.50	2.4%	15.60
3 Pack, X Line Grip	2,072	6,216	32,488.25	2.66%	15.68
3 Pack, XI, Full Cord Grip	27	81	748.85	0.06%	27.74

**Total Assembly**

233,226.05    19.09%

**TOTAL**

261,738    1,221,670.07    100.0%

**Warren Small**

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**From:** <RLMPHD@aol.com>  
**To:** <jzombola@yahoo.com>  
**Cc:** <wessmall@redshift.com>; <LowandLow@aol.com>  
**Sent:** Tuesday, September 20, 2005 10:10 AM  
**Subject:** Re: Testimonials

In a message dated 9/20/2005 9:52:21 A.M. Pacific Daylight Time, jzombola@yahoo.com **writes:**

**Wes/Warren**

**this is feedback from the other top 4 major golf retailers...so now you have from the top 5 golf retailers in the USA.....unless its commercially viable they will not touch a product..generally their margins are too small**

Lee,

With a year under our belt I wanted to share the compliments from the national chain customers I service.

**Golfsmith**

With you in last week for the demo day you heard the consumers that had the grips already and were re gripping and telling us they had such success with the product they would not play with any thing else.

**Golfworks**

The senior buyer at Golfworks told me he has never seen a game improvement grip that was USGA conforming that his customers had responded to his company on how well it helped there game.

**Golf Galaxy**

After Charlie Davis had doubt in the product and then brought it in on a test market. The immediate sales and feedback on how well it helped his customers game they reordered after two weeks of selling the product from consumer demand

One of the greatest testimonials we have received was from the design of the grip a gentleman had tried jumbo grips from Golfsmith and had arthritis and was gone to have to quit playing because of the pain while and after playing and then when he tried the Full Release Grip he not only have the pain but played better than he ever had.

Jeff Zombola

Feel Golf

National Accout manager Grip Division

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<http://mail.yahoo.com>

*Lee Miller*

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9/20/2005